

PATENT

Atty Docket No.: 200300594-1

App. Scr. No.: 10/666,577

REMARKS

Claims 1, 4, 6-21, 23-35, 40, 41, and 43-45 remain pending, of which claims 1, 20 and 40 are independent.

The restriction requirement in the Office Action dated June 27, 2007 is respectfully traversed for at least the following reasons.

In the Office Action, the Examiner alleged that Group I (Claims 1, 4, and 6-19) and Group II (Claims 20, 21, 23-35, 40-41, and 43-45) are independent, or distinct, as combination and subcombination under MPEP § 806.05(c).

It is respectfully submitted that in accordance with MPEP § 808.02,

Where the inventions as claimed are shown to be independent or distinct under the criteria of MPEP § 806.05(c) - § 806.06, the examiner, in order to establish reasons for insisting upon restriction, must explain why there would be a serious burden on the examiner if restriction is not required. Thus the examiner must show by appropriate explanation one of the following:

(A) Separate classification thereof: This shows that each invention has attained recognition in the art as a separate subject for inventive effort, and also a separate field of search. Patents need not be cited to show separate classification.

(B) A separate status in the art when they are classifiable together: Even though they are classified together, each invention can be shown to have formed a separate subject for inventive effort when the examiner can show a recognition of separate inventive effort by inventors. Separate status in the art may be shown by citing patents which are evidence of such separate status, and also of a separate field of search.

(C) A different field of search: Where it is necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to the other invention(s) (e.g., searching different classes/subclasses or electronic resources, or employing different search queries, a different field of search is shown, even though the two are classified together. The indicated different field of search must in fact be pertinent to the type of subject matter covered by the claims. Patents need not be cited to show different fields of search.

Where, however, the classification is the same and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among independent or related inventions.

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It is respectfully submitted that the Examiner made no mention of any serious burden on the examiner if restriction is not required in the claimed invention. Indeed, it is respectfully submitted that it was not a serious burden on the Examiner to examine all pending Claims 1, 4, 6-21, 23-35, 40, 41, and 43-45. This is evidence from the records, which indicate that the Examiner previously examined and rejected all of these claims with alleged prior art in a previous Office Action dated January 31, 2007. In response, an Amendment was filed on April 30, 2007 with no new features added to the claimed invention. Indeed, the only substantive amendment was made in Claim 1, which was amended to include the subject matter of Claim 5. Thus, amended Claim 1 is previously-presented Claim 5 written in independent form. However, the records show that Claim 5 was already examined in the previous Office Action.

Because the previous Office Action indicated an examination of all pending Claims 1, 4, 6-21, 23-35, 40, 41, and 43-45, it follows that the Examiner must have substantively considered the claimed invention for such an examination. Therefore, it would not have been a burden on the Examiner to reconsider the same claimed invention. Accordingly, it is respectfully submitted that the restriction requirement is improper.

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CONCLUSION

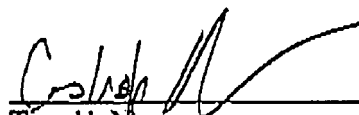
In light of the foregoing, withdrawal of the restriction requirement and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 08-2025.

Respectfully submitted,

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